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Local Counsel for County of Sonoma Tax Collector

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

-----	:	Chapter 11
In re:	:	Case No. 08-35653 (KRH)
CIRCUIT CITY STORES, INC.	:	Jointly Administered
et al.,	:	
Debtors.	:	Hearing scheduled 10/19/2011 at 02:00 PM
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**COUNTY OF SONOMA TAX COLLECTOR'S MOTION FOR RELIEF FROM ORDER
AND MEMORANDUM IN SUPPORT THEREOF**

The County of Sonoma Tax Collector ("Tax Collector") moves pursuant to Federal Rule of Bankruptcy Procedure 9024 and Federal Rule of Civil Procedure 60 for relief from the Court's July 8, 2011, Order [Docket Entry No. 10961], which sustained the Circuit City Stores, Inc. Liquidating Trust's (the "Liquidating Trust") Eighteenth Omnibus Objection To Claims Filed By

Taxing Authorities (Reduction Of Certain Partially Invalid Claims; Disallowance Of Certain Invalid Claims; Disallowance Of Certain Duplicate Claims; Reclassification Of Certain Claims; Disallowance Of Certain Amended Or Superseded Claims; Disallowance Of Certain Late Filed Claims; Disallowance Or Reduction Of Certain Invalid Claims; And Fixing The Amount Of Certain Claims) (the "Objection") [Docket Entry No. 10062]. The Court's Order, which reduced the Tax Collector's claim from \$7,254.55 to \$953.62, was entered without a hearing and without the Court giving any consideration to the Tax Collector's timely filed Response to the Objection [Docket Entry No. 10260]. In support of this Motion for Relief from Order, the Tax Collector states as follows:

1. On February 28, 2011, the Liquidating Trust filed the Objection [Docket Entry No. 10062] and set the hearing for the Objection on April 14, 2011, which was then continued to June 9, 2011 [Docket Entry No. 10571] and thereafter to August 22, 2011 [Docket Entry No. 10853].
2. On April 4, 2011, the Tax Collector timely filed its Response to the Objection ("Response") [Docket Entry No. 10260].
3. Unknown to the Tax Collector, and despite the fact that Objection hearing was continued from June 9, 2011 to August 22, 2011, on or about July 8, 2011, this Court entered an Order Sustaining the Liquidating Trust's Objection and reduced the Tax Collector's claim from \$7,254.55 to \$953.62 [Docket Entry No. 10961]. That Order erroneously stated that "no response was timely filed or properly served by the Claimants being affected by this Order." Order at 2. In fact, the Tax Collector had timely filed and properly served a Response. *See* Response [Docket Entry No. 10260].
4. On August 22, 2011, this Court entered an entry for Continued Status Hearing as

to Claimants on Exhibit B Filing Responses and as to Those Claimants with Whom the Trustee Has Agreed to Extend the Response Deadline re the Objection to October 19, 2011 [Docket Entry No. 11152].

5. On or about September 18, 2011, contrary to the fact that the Objection hearing was continued to October 19, 2011, the Tax Collector erroneously received a check from the Liquidating Trust for \$953.62. The Tax Collector has not cashed this check.

WHEREFORE the Tax Collector respectfully requests that the Court enter an Order: (i) correcting the Order referenced in Paragraph 3 above to set forth that this matter has not been resolved and set for a continued hearing date of October 19, 2011; (ii) allowing the Tax Collector to deposit and cash the check in the amount of \$953.62 without prejudice to its remaining claims; and (iii) granting such other relief as the Court deems necessary and just.

Dated: October 3, 2011

Respectfully submitted,

/s/ Anne G. Bibeau, Esq.

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CERTIFICATE OF SERVICE

I certify that on October 3, 2011, I will file the preceding with the Court's CM/ECF system which will cause a copy of it to be electronically served on all users registered to receive electronic notice in this case; and will mail to the following counsel for the Liquidating Trust:

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